Appl. No. 09/981,642
Amdt. dated July 2, 2008
Reply to Office Action of January 2, 2008

PATENT

REMARKS/ARGUMENTS

Claims 2, 10-13, 20, 22-24, and 28-44 are pending. The Office Action rejects claims 2, 10-13, 20, and 22-24 under 35 U.S.C. §103 as unpatentable over Cornelius (U.S. Patent 7,069,234) in view of Harrell (U.S. Pub. 2002/0156656). These rejections are respectfully traversed.

Provisional Double Patenting

The Office Action requests that Applicants submit terminal disclaimers over several co-pending applications. Initially, it is noted that the present Office Action does not reject the claims under any double patenting rejection. If the Office intends to repeat the nonstatutory obviousness-type provisional double patenting rejection set forth in a prior Office Action, it is respectfully noted that the cited applications have not yet issued as patents and have the same inventive entity as the present application. Further, it is noted that the provisional rejection does not require the filing of a terminal disclaimer or other response unless and until the claims in one or more of the present and/or cited applications actually issue or are in condition for allowance, and the provisional rejection is the sole remaining rejection in this application. Therefore, Applicants will respond to any further provisional double patenting rejection when any such rejection is no longer provisional.

35 U.S.C. §103 Rejections

To render a claim obvious, the prior art must disclose or suggest each and every feature recited in the claims. *See* M.P.E.P. § 2143.03; *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966); *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995). The Office Action asserts that the cited art discloses the features recited in claims 2, 10-13, 20, and 22-24. However, as discussed in further detail below, the cited art lacks any discussion of several features present in the claims. Further, claims 28-44 include additional features not found in the cited art. Therefore, these claims are patentable over the cited art, and withdrawal of the rejections is respectfully requested.

<u>The Cited References Fail to Disclose Determining Obligations Defined in a Purchase
Order Agreement.</u>

Claim 28 is exemplary and recites, in relevant part,

determining the portion of a cargo insurance premium that at least one of the
buyer and the seller is obligated to pay **according to obligations defined in the
purchase order agreement**; and

Claims 10-12, 31, 32, 35-37, 40, and 41-43 recite related features. The Office Action rejects

claims 10-12 based on Figure 25 and related text in Cornelius. However, Cornelius merely

describes that a buyer and seller may <u>specify requirements</u> of each party to a purchase order or

purchase order pro forma invoice (POPI):

> FIG. 25 depicts a combined Purchase Order Performa Invoice 2500. The
> Combined Purchase Order Proforma Invoice allows buyer to submit
> application to initiate transaction in VTrade over VTrade Web. The buyer
> indicates a **requirement for the seller to fulfill** on the Combined
> Purchase Order Proforma Invoice. The buyer submits Combined Purchase
> Order Proforma Invoice to VTrade after completing requirements.
>
> …
>
> If the seller cannot fulfill the buyer's requirement, the buyer and seller will
> **amend** the Combined Purchase Order Proforma Invoice until agreeable
> terms are achieved. Each amendment by the trading parties on Combined
> Purchase Order Proforma Invoice will be reflected as a new version.

Col. 21:16-32 (emphasis added). Contrary to the assertion of the Office Action, the POPI does

not "<u>determine</u>[ ] buyer and seller obligations" (emphasis added), it merely records requirements

selected by the buyer and seller. There is no suggestion that Cornelius' system can determine

obligations based on purchase agreement terms, and especially not the portion of a cargo

insurance premium that a party is obligated to pay based on terms of a purchase order agreement.

Cornelius' mere listing of POPI terms selected by a party is not a disclosure of the determination

required by the claims. For at least this reason, Cornelius fails to describe or suggest each and

every feature of claim 28.

Claim 39 is also exemplary and recites, in relevant part,

> **determining, based upon one or more shipping terms** comprising one or more Inco shipping terms agreed to by the seller and the buyer and electronically stored by the system, **which one of the seller and the buyer bears a majority of the risk of loss** for at least one of a greater amount of shipping distance and a greater amount of shipping time.

Claim 2 recites similar features. The Office Action cites to the same portion of Cornelius (Figure 25 and related text) as disclosing these features. However, as previously described, Cornelius' POPI merely lists requirements selected by the seller and buyer. Even if the POPI records shipping terms specified by the parties, which Applicants do not concede, there is no suggestion that his system performs any further analysis using those terms. There is specifically no suggestion that his system uses shipping terms as agreed to by the parties to determine which party bears a majority of the risk of loss as required by the claims. For at least this reason, Cornelius fails to disclose each and every feature recited in claims 2 and 39.

Harrell fails to remedy the defects of Cornelius as described above. Therefore, for at least each of the reasons presented above, the independent claims are not rendered obvious by the cited art. The dependent claims are allowable for at least the same reasons as the independent claims. Withdrawal of the rejections is respectfully requested.

The Cited References Fail To Disclose Evidence of Performance in Connection with Purchase Order Agreement Obligations.

Claim 29 is exemplary and recites, in relevant part,

> receiving and storing electronic **evidence that the seller has fulfilled at least one obligation defined by the purchase order agreement**.

Claims 1, 30, 33, and 39 recite similar features. The Office Action cites to Figures 23-25 of Cornelius as disclosing a similar feature in claim 1. Applicants respectfully disagree. Regarding Figure 23, Cornelius merely indicates that a buyer and seller can negotiate the terms of a purchase order:

> FIG. 23 is a flowchart illustrating a process 2300 for completing a purchase order/invoice….The seller is then **allowed to amend the form** in

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> operation 2304 thus generating a revision of the form. …Likewise, the
> buyer is then **allowed to amend the form** in operation 2308 thus
> generating a revision of the form. Such version of the form that is received
> by the buyer is then saved in operation 2310. In operation, the various
> versions of the form are made available for editing and use **until there are
> no further amendments, and the purchase order/invoice is complete**.
> See operations 2312,2314.

Col. 20:32-45 (emphasis added). The buyer and seller can amend the purchase order and thereby
specify each of their requirements that will be included in the purchase order. However, there is
no suggestion that Cornelius' system receives or stores any information regarding whether or not
a buyer or seller has **fulfilled** an obligation defined in the purchase order as required by the
claims. The mere listing (or amending) of the requirements for each party has no bearing on
whether a party has actually fulfilled an obligation set out in the completed (i.e., fully-specified)
purchase order. Thus, Figure 23 fails to disclose or suggest the features recited in the claim.

Similarly, Figures 24 and 25 merely describe creation of a purchase order pro forma
invoice (POPI) by selection of various requirements each party will perform under the POPI.
Notably, the parties can amend the POPI to change the requirements, and the POPI is "complete"
when the buyer and seller have completely specified the requirements of the other party:

> FIGS. 24A and 24B illustrate an illustrative Purchase Order Performa
> Invoice (POPI) 2400. …The Buyer indicates the performance by seller or
> requirement **for seller to fulfill** via POPI. The buyer submits the POPI to
> VTrade after completing all **terms/performance required of the seller**.
> …
>
> If the seller cannot fulfill the buyer's requirement, the buyer and seller will
> **amend the POPI** until agreeable terms are achieved. The buyer and seller
> can submit each amendment on POPI via the submit pushbutton 2402,
> 2404. Each amendment by trading parties on POPI will be reflected as a
> new version. …

Col. 20:58 – 21:10 (emphasis added). As previously described, Figure 25 also only relates to the
process of selecting requirements for a buyer and seller that are included a POPI. As with the
purchase order described with respect to Figure 23, Cornelius' POPI is constructed by a buyer

and seller to specify the obligations each party assumes under the pro forma purchase order. The description of the buyer "completing terms/performance required <u>of the seller</u>" refers to the buyer completing the purchase order form, <u>not</u> completing actual obligations set out in the purchase order.

In fact, all the activity Cornelius describes with respect to Figures 23-25 takes place <u>before</u> or as the purchase order or POPI is finalized and agreed to by the parties. It does not describe the parties performing any obligations set out in the purchase order, or suggest that Cornelius' system records evidence that purchase order obligations have been fulfilled. Therefore, these passages do not relate to storing evidence that a buyer or seller has fulfilled an obligation defined by the purchase order as required by the claims.

Harrell fails to remedy the defects of Cornelius described above. The cited references fail to disclose or suggest each and every feature recited in the claims for at least the reasons set forth above, and claims 1, 29, 30, 33, and 39 and all claims dependent therefrom are not obvious over the cited art. Withdrawal of the rejections is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 202-481-9900.

The Commissioner is authorized to charge any fees due or credit any overpayment to the deposit account of Townsend and Townsend and Crew LLP, Deposit Account No. 20-1430.

Respectfully submitted,

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